

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**CORRECTED  
FISCAL MEMORANDUM**

**HB 2414 – SB 2387**

April 11, 2016

**SUMMARY OF ORIGINAL BILL:** Requires any student attending a public secondary or postsecondary institution to use the restrooms and locker rooms that are assigned to persons of the same sex as shown on the student's birth certificate.

**CORRECTED FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Expenditures – Exceeds \$324,000

Other Fiscal Impact – Federal funding to the state for education could be jeopardized. The extent and timing of any such withholding cannot be reasonably quantified. The Governor's FY16-17 Budget Document includes federal K-12 funding of \$1,114,013,000 and Higher Education funding of \$217,269,700.

Economic impacts from the possible loss of conventions to the Nashville-Davidson County Metropolitan Area as well as other areas of the state could result in forgone state and local tax revenue. An exact amount and timing of any impact cannot be quantified, but the net impact is reasonably estimated to exceed \$300,000 in state tax revenue and \$500,000 in local tax revenue.

**SUMMARY OF AMENDMENT (014342):** Deletes and rewrites the bill such that the only substantive change is to authorize local education agencies (LEAs) and public institutions of higher education to make appropriate accommodations with respect to student use of locker room and restroom facilities.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

On April 1, a fiscal memorandum was issued for the bill, as amended, with a fiscal estimate as follows: *Unchanged from the corrected original fiscal note.* On April 11, 2016, a new corrected fiscal note was issued for the original bill. Additional information was also received from the Tennessee Board of Regents relative to facilities on TBR campuses. Based on the new corrected original fiscal note and this additional information, the fiscal

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impact and assumptions for the bill, as amended, were determined to be in error and have been corrected. The fiscal impact for the bill as amended is as follows:

**(CORRECTED)**

**Increase State Expenditures – Exceeds \$324,000**

**Other Fiscal Impact – Federal funding to the state for education could be jeopardized. The extent and timing of any such withholding cannot be reasonably quantified. The Governor’s FY16-17 Budget Document includes federal K-12 funding of \$1,114,013,000 and Higher Education funding of \$217,269,700.**

**Economic impacts from the possible loss of conventions to the Nashville-Davidson County Metropolitan Area as well as other areas of the state could result in forgone state and local tax revenue. An exact amount and timing of any impact cannot be quantified, but the net impact is reasonably estimated to exceed \$300,000 in state tax revenue and \$500,000 in local tax revenue.**

**To the extent that higher education campuses have to make changes to bathroom or other locker room facilities, the one-time increase in state expenditures is estimated to exceed \$20,000 per institution.**

Corrected assumptions for the bill as amended:

- No change in the Basic Education Program (BEP) or higher education funding formulas.
- Based on information from the Tennessee Board of Regents (TBR), TBR does not currently collect birth certificate information from students. TBR will collect, record, scan, and enter student birth certificates and corresponding information into the Banner System.
- Based on information from TBR, each university will require one additional full-time staff member to perform the additional work and keep it up-to-date. The increase in salary and benefits for each new staff member is estimated to be \$54,000; a total recurring increase in state expenditures of \$324,000 (\$54,000 x 6 universities).
- Based on information from TBR regarding construction costs to add or retrofit a single stall restroom to existing facilities, the increase in one-time state expenditures to build a single stall restroom is estimated to exceed \$20,000 per facility that needs to add such accommodations. The extent to which TBR will be required to add or retrofit restrooms is unknown.
- The U.S. Department of Education has “reasonably concluded that, although Section 106.33 permits schools to provide separate boys’ and girls’ restrooms, when a school

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elects to do so, it must permit students to use the restrooms that are consistent with their gender identity.” *Brief for the United States as Amicus Curiae, G.G. v. Gloucester County School Board, No. 15 - 2056 (2015)*.

- Based on conversations with the Department’s Office of Civil Rights on April 8, 2016, it was clarified that if the U.S. Department of Education determined the provisions of the bill violated current federal Title IX regulations all federal K-12 education funding could be withheld.
- The Governor’s FY16-17 budget includes \$1,114,013,000 in federal K-12 funding.
- Due to the bill’s application to post-secondary education institutions as well, it is assumed that federal Higher Education funding could also be withheld. The Governor’s FY16-17 budget includes \$217,269,700.
- The Nashville Convention and Visitors Corporation has received notices from 14 organizations (four currently booked and ten still in negotiations) regarding the likelihood of withdrawing the groups’ conventions from the city. Based on similar actions in North Carolina after the passage of HB 2 on March 23, 2016, it is reasonably assumed Davidson County, as well as other areas of the state, will realize a loss of state and local sales and use tax revenue.
- Based on three scheduled conventions and using the Destination Marketing Association International (DMAI) Event Impact Calculator, the reduction in tax revenue is estimated to be \$703,540 in state taxes and \$916,095 in local taxes in FY17-18 in Nashville. These amounts include food, alcohol, hotel, and miscellaneous expenditures.
- While the corporation may be able to find other conventions that can fill the event space if a convention decides leave the city, due to the limited time frame it is unlikely any replacement convention will be of the same size and magnitude of the currently scheduled conventions.
- While an exact impact cannot be quantified, it is reasonably estimated the recurring net impact will result in forgone state revenue exceeding \$300,000 and local revenue exceeding \$500,000.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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